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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,979	08/27/2003	William E. Fillmore	16878-02	4398

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EXAMINER

LEE, EDMUND H

ART UNIT PAPER NUMBER

1732

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,979

Applicant(s)

FILLMORE, WILLIAM E. R

Examiner

EDMUND H. LEE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/9/04; 8/27/03</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. Claims 13-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The phrase "molding a charge of molten plastic" (cl 13, ln 2) lacks support in the instant disclosure. The instant disclosure is directed to only compression molding the molten plastic to form a plastic closure. There is no mention of any other molding method to form the plastic closure.
2. Claims 13-23 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for compression molding a plastic closure, does not reasonably provide enablement for molding a plastic closure. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. While the instant disclosure supports compression molding the closure, there is no support molding the closure. The breadth and scope of "molding" is greater than what is supported by the instant disclosure.
3. Claims 2-7 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is indefinite because it appears to conflict with the step of forming an opening during the compression molding of the closure of claim 1. Claim 2 recites

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forming a cull during compression molding and then severing the cull to form the opening, whereas claim 1 recites forming the opening during the compression molding.

Clarification and correction is required.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hins (USPN 5743443) in view of Morton (USPN 5285913). In regard to claim 1, Hins teaches the basic claimed process including a method of making a dispensing closure (fig 3); injection molding a charge of molten plastic to form a plastic closure having a base wall and a peripheral skirt, and forming an opening in the base wall of the plastic closure during the injection molding (col 3, lns 23-63; fig 3); and injection molding a combined liner and nozzle on the plastic closure (col 3, lns 23-63; fig 3). It should be noted that the slit valve of Hins constitutes a closure. Hins does not teach compression molding. Morton teaches molding plastic closures by either compression molding or injection molding. Hins and Morton are combinable because they are analogous with respect to molding closures. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to mold the closure and combined liner and nozzle of Hins by compression molding as taught by Morton instead of injection molding since the compression molding and injection molding art substitutable alternatives. In regard to claims 8-12, such are taught by Hins (col 3, lns 23-63; fig 3).

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6. Claims 13 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hins (USPN 5743443) in view of Morton (USPN 5285913). In regard to claim 13, Hins teaches the basic claimed process including a method of making a dispensing closure (fig 3); injection molding a charge of molten plastic to form a plastic closure having a base wall and a peripheral skirt, and forming an opening in the base wall of the plastic closure during the injection molding (col 3, lns 23-63; fig 3); and injection molding a combined liner and nozzle on the plastic closure (col 3, lns 23-63; fig 3). It should be noted that the slit valve of Hins constitutes a closure. Hins does not teach compression molding. Morton teaches molding plastic closures by either compression molding or injection molding. Hins and Morton are combinable because they are analogous with respect to molding closures. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to mold the combined liner and nozzle of Hins by compression molding as taught by Morton instead of injection molding since the compression molding and injection molding art substitutable alternatives. In regard to claims 22-23, such are taught by Hins (col 3, lns 23-63; fig 3).

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents illustrate the state of the art: USPN 6786363; USPN 6230940; USPN 5800764; and USPN 4497765.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 571.272.1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EHL

EDMUND H. LEE
Primary Examiner
Art Unit 1732


11/29/04